

Message Text

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ACTION AF-08

INFO OCT-01 ISO-00 SP-02 USIA-06 AID-05 EB-07 NSC-05
CIEP-01 TRSE-00 SS-15 STR-04 OMB-01 CEA-01 L-03 H-01
PA-01 PRS-01 CIAE-00 COME-00 FRB-03 INR-07 NSAE-00
XMB-02 OPIC-03 LAB-04 SIL-01 FEA-01 /083 W
----- 057372

R 091043Z DEC 76

FM AMEMBASSY LAGOS

TO SECSTATE WASHDC 8116

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E.O. 11652: N/A

TAGS: EINV, NI

SUBJECT: INDIGENIZATION

REF: LAGOS 13175

1. SUMMARY. IN MEETING WITH AF/W DIRECTOR SMITH, NEPB CHAIRMAN AL-HAKIM SAID FMG INDIGENIZATION DECREE WILL NOT BE PUBLISHED UNTIL CHRISTMAS OR PERHAPS MID-JANUARY. THUS UNABLE TO SPELL OUT NEW MEASURES RELATING TO SPECIFIC FIRMS. NEVERTHELESS, AL-HAKIM INDICATED THAT DECREE LIKELY TO BE MORE MODERATE THAN WHITE PAPER, AND THAT FMG WILLING TO NEGOTIATE WITH AFFECTED FIRMS. DESPITE THIS PRAGMATIC APPROACH, AL-HAKIM STRESSED THAT MINIMUM 40 PERCENT NIGERIAN OWNERSHIP OF ALL FIRMS INCORPORATED HERE WAS STILL NON-NEGOTIABLE FMG POLICY. EMBASSY BELIEVES THAT AL-HAKIM'S GENERALLY UPBEAT PRESENTATION INDICATES FMG PRAGMATISTS HAVE UPPER HAND IN DISPUTE WITH MORE IDEOLOGICAL ELEMENTS OVER IMPLEMENTATION OF INDIGENIZATION POLICY. END SUMMARY.

2. AF/W DIRECTOR SMITH AND EMBOFF DISCUSSED FMG INDIGENIZATION POLICY WITH NIGERIAN ENTERPRISE PROMOTION BOARD (NEPB) CHAIRMAN AL/HAKIM ON DECEMBER 7. AL-HAKIM SAID HE COULD NOT GIVE DEFINITIVE RESPONSES TO QUESTIONS POSED BECAUSE DECREE NOT YET PUBLISHED. ALTHOUGH HE EXPECTED DECREE TO BE OUT BY CHRISTMAS, OR FAILING THAT, BY MID-JANUARY, AL-HAKIM STATED THAT CONTENT OF DECREE WAS STILL IN STATE OF FLUX. INBASTRIAL CLASSIFICATIONS
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WERE BEING CHANGED, AND SCHEDULES SHIFTING. AL-HAKIM STRESSED

FLEXIBILITY OF FMG IN FORMULATING DECREE, AND CITED INDIVIDUAL FIRMS' PRESENTATIONS TO FMG AS HAVING MODERATING INFLUENCE ON DECREE DRAFTERS. HE STRESSED THE NEPB'S CONTINUED WILLINGNESS TO DISCUSS INDIGENIZATION WITH INDIVIDUAL FIRMS. (NOTE: PFIZER WAS DISCUSSED AT THIS POINT; WILL REPORT SEPTTEL.)

3. EMBOFF ASKED IN THE 40 PERCENT MINIMUM NIGERIAN EQUITY POSITION POLICY WAS ALSO SUBJECT TO NEGOTIATION. AL-HAKIM SAID THE 40 PERCENT MINIMUM WAS NOTOJPT NOT NEGOTIABLE. HE DID NOT BELIEVE THIS WAS A PROBLEM, BECAUSE MOST OF THE FIRMS WHO HAVE DISCUSSED FUTURE INDIGENIZATION REQUIREMENTS WITH THE NEPB HAVE ACCEPTED 40 PERCENT MINIMUM. ARGUMENTS OF MOST COMPANIES ARE TO SHIFT THEIR FIRMS FROM SCHEDULES I OR II TO SCHEDULE III.

4. AL-HAKIM SAID THERE WAS NO SHORTAGE OF DOMESTIC PRIVATE CAPITAL NEEDED TO PURCHASE OFFERED EQUITY. VIEWED RECENT FMG STOCK ACQUISITION OF BANKS AND ONGOING STOCK TRANSFER NEGOTIATIONS BETWEEN FMG AND INSURANCE COMPANIES AS EXCEPTIONS BASED ON DELIBERATE FMG DECISION TO CONTROL CERTAIN KEY SECTORS OF ECONOMY. ALTHOUGH AL-HAKIM DID NOT DIRECTLY SAY FMG WOULD NOT ACQUIRE ADDITIONAL EQUITY FOR POLICY REASONS, HE DID IMPLY THAT FMG WOULD NOT, BY OBSERVING THAT FMG CONTEMPLATED BUYING ADDITIONAL EQUITY IN OTHER SECTORS ONLY IF INDIVIDUAL COMPANIES WERE UNSUCCESSFUL IN SELLING SHARES TO PRIVATE SECTOR AT THE ISSUE PRICE FIXED BY THE CAPITAL ISSUES COMMISSION (CIC).

5. REPLYING TO QUESTIONS ON SCHEDULING SPECIFIC INDUSTRIES, AL-HAKIM SAID THAT THE MORE SOPHISTICATED INDUSTRIES WOULD PROBABLY BY PLACED IN SCHEDULE III (40 PERCENT NIGERIA). PHARMACEUTICALS: CONSULTING ENGINEERS, TELECOMMUNICATIONS AND POWER, AND ADVANCED OFFICE EQUIPMENT(E.G. COMPUTERS) WERE CITED AS LIKELY CANDIDATES FOR SCHEDULE III. THE POSITIONS OF THE COSMETICS AND CONSTRUCTION INDUSTRIES WERE BEING RE-EVALUATED WITH COSMETICS FALLING POSSIBLY UNDER SCHEDULE II. LARGE CONSTRUCTION FIRMS (UNDEFINED) MAY BE LISTED UNDER SCHEDULE III TO ENCOURAGE THEIR NEEDED PARTICIPATION IN FULFILLING NIGERIA'S DEVELOPMENT GOALS. SMALLER CONSTRUCTION FIRMS MAY BE LISTED UNDER SCHEDULE IIM AL-HAKIM CONCLUDED BY ARGUING THAT THE FMG'S PRAGMATIC APPROACH TO INDIGENIZATION PROVED THAT NIGERIA WAS PROVIDING SUFFICIENT ASSURANCES TO ADDITIONAL FOREIGN INVESTMENT NEEDED HERE.

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6. COMMENT: ALTHOUGH AL-HAKIM HAD OBVIOUS INTEREST IN TELLING SMITH AND EMBOFF WHAT THEY WANTED TO HEAR, HE SEEMED GENUINELY CONFIDENT IN PREDICTING THAT INDIGENIZATION DECREE WILL BE SIGNIFICANTLY MORE MODERATE THAN WHITE PAPER. LIKELY THEN THAT MODERATES HAVE GAINED UPPER HAND IN IN-HOUSE DISPUTE WITH RADICAL PROPONENTS OF WHITE PAPER OVER IMPLEMENTATION OF INDIGENIZATION. HIS POINT THAT THE 40 PERCENT MINIMAL NIGERIAN EQUITY PARTICIPATION

WAS NON-NEGOTIABLE IS CONSISTENT WITH FMG PRONOUNCEMENTS AND
ACTIONS SINCE OBASANJO'S JUNE 29 INDIGENIZATION SPEECH. ALTHOUGH
E

POSSIBLE FOR FMG AND US FIRMS SEEKING TO RETAIN 100 PERCENT EQUITY
CONTROL TO AGREE TO ALTERNATIVE SOLUTION (E.G., TRANSFER STOCK IN
PARENT U.S. COMPANY INSTEAD OF STOCK OF NIGERIAN SUBSIDIARY), MORE
PROBABLE THAT FMG WILL REMAIN ADAMANT ON THE 40 PERCENT ISSUE WHICH
WILL PRESENT U.S. FIRMS TAKING HARD LINE ON EQUITY QUESTION (E.G.
IBM AND REPORTEDLY COLGATE-PALMOLIVE) WITH SOME VERY DIFFICULT
CHOICES IN FUTURE.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: POLICIES, PRIVATE ENTERPRISE, FOREIGN INVESTMENT, BUSINESS FIRMS
Control Number: n/a
Copy: SINGLE
Draft Date: 09 DEC 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: CunninFX
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976LAGOS13720
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760455-0566
From: LAGOS
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19761259/aaaabymr.tel
Line Count: 127
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION AF
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 76 LAGOS 13175
Review Action: RELEASED, APPROVED
Review Authority: CunninFX
Review Comment: n/a
Review Content Flags:
Review Date: 26 JUL 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <26 JUL 2004 by BoyleJA>; APPROVED <18 OCT 2004 by CunninFX>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: INDIGENIZATION
TAGS: EINV, NI
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006